

Exhibit C



MALDEF

The Latino Legal Voice for Civil Rights in America.

National Headquarters

MALDEF Nonprofit Center
634 S. Spring Street, 12th Fl.
Los Angeles, CA 90014
Tel: 213.629.2512
Fax: 213.629.0266

January 12, 2023

Atlanta

Program Office

34 Peachtree Street, NW
Suite 2500
Atlanta, GA 30303
Tel: 678.559.1071
Fax: 678.559.1079

John M. Gore

Partner

JONES DAY

51 Louisiana Avenue, N.W.

Washington, DC 20001

Chicago

Regional Office

11 East Adams Street
Suite 700
Chicago, IL 60603
Tel: 312.427.0701
Fax: 312.427.0691

RE: Defendant-Intervenors' December 1, 2022, Production of Documents, LUPE v. Abbott, No. 5:21-cv-00844 (W.D. Tex.)

Dear Mr. Gore,

I write to request clarification regarding Defendant-Intervenors' December 1, 2022 production of documents in response to Private Plaintiffs' First Set of Requests for Production. I send this letter in the hope that we can narrow some of the areas of disagreement between the parties.

Los Angeles

Regional Office

634 S. Spring Street,
11th Fl.
Los Angeles, CA 90014
Tel: 213.629.2512
Fax: 213.629.0266

Private Plaintiffs served Defendant-Intervenors with their First Set of Requests for Production July 7, 2022. On October 24, 2022, following several meet and confer exchanges, Plaintiffs filed an Opposed Motion to Compel Production of Documents. ECF 469. The Court held a hearing on the pending discovery motions on November 14, 2022. In the November 14, 2022 hearing, Defendant-Intervenors agreed to produce all responsive documents to requests for production ("RFPs") 1 and 3 without objection and without any assertion of privileges, by December 1, 2022. See ECF 490 at 5; Hr'g Tr. at 13:17–22, 35:3–4.

Sacramento

Program Office

1512 4th Street
Sacramento, CA 95814
Tel: 916.444.3031
Fax: 916.444.7207

On December 1, 2022, we received your correspondence and document production in response to RFPs 1, 3, and 5. Private Plaintiffs have several questions and requests with respect to Defendant-Intervenors' production.

San Antonio

Regional Office

110 Broadway
Suite 300
San Antonio, TX 78205
Tel: 210.224.5476
Fax: 210.224.5382

Your December 1, 2022 letter states that Defendant-Intervenors "searched the previously disclosed custodians' committee email accounts for any communications with (*i.e.*, To, From, CC, or

Washington, D.C.

Regional Office

1016 16th Street, NW
Suite 100
Washington, DC 20036
Tel: 202.293.2828

BCC) email accounts containing *texas.gov and reviewed the search results for documents and communications regarding SB 1, SB 7, HB 3, or HB 6."

First, we understand the "previously disclosed custodians" to be the individuals identified in your August 29, 2022 and October 20, 2022 letters to Plaintiffs' counsel as "individuals with those committees identified as most likely to possess information responsive to Plaintiffs' Requests" and individuals "identified as most likely to have responsive documents[.]" However, the individuals identified by Defendant-Intervenors as being most likely to possess information or most likely to have responsive documents are not necessarily the only individuals associated with Defendant-Intervenors whose email accounts may contain documents "sent to or exchanged with the Texas Legislature [and several other state agencies] regarding SB 1, SB 7, HB 3, or HB 6." Please confirm, with respect to your search of email accounts, whether Defendant-Intervenors made an effort to identify individuals whose email accounts would contain the documents that are the subject of RFPs 1 and 3 before deciding to search the email accounts of the "previously disclosed custodians[.]"

Second, your December 1 letter says that your search was limited to "committee email accounts[.]" The documents you produced in your December 1, 2022 production consist primarily of emails and email attachments. However, RFPs 1 and 3 requested "[a]ll documents, including but not limited to communications, talking points, and memoranda, sent to or exchanged with the Texas Legislature [and several other state agencies] regarding SB 1, SB 7, HB 3, or HB 6." Please conduct a search that includes more than committee email accounts and includes, at a minimum, mail correspondence and other paper communication.

Third, your December 1 document production consists primarily of documents from the period between November 2021 and February 2022. However, the RFPs request documents related to SB 1, SB 7, HB 3, and HB 6. This includes, at a minimum, documents from the period of the 87th Texas Legislature and its first and special sessions, which began in January 2021 and ended with the enactment of SB 1 in September 2021. The relevant period would also include the 2022 Primary and General Elections, to the extent that there were communications related to the effect of SB 1 in the elections. Please conduct a search that includes the full time period relevant to SB 1, SB 7, HB 3, and HB 6.

Fourth, your December 1 letter states that "[a]ll of the documents in the production were collected from Harris County Republican Party custodians" and "[n]o documents responsive to Requests for Production No. 1 or No. 3 were identified in the possession of the previously identified custodians from the Republican National Committee, National Republican Senatorial Committee, National Republican Congressional Committee, or the Dallas County Republican Party." The lack of responsive documents from these organizations raises the possibility that the search terms or time period was too restrictive. Please identify the search terms and parameters used in conjunction with the responses to RFPs 1 and 3. Please also provide a list of the databases that you searched using the identified search terms and parameters.

Fifth, in your December 1, 2022 letter you state that you conducted a search and review “pursuant to Request for Production No. 5, as narrowed in scope per the Court’s order to SB 1 and the predecessor bills.” The Court in its order (Dkt. 490) said it “agreed with the Defendant Intervenors that RFPs 2, 4, and 5 were overly broad and ordered the parties to meet and confer over potential search terms.” In light of our ongoing discussion of RFP 5, please advise whether you consider your December 1, 2022 production to satisfy your obligation to respond to RFP 5.

Sixth, in your December 1 document production we were unable to locate a document specifying which produced documents were responsive to which requests, and whether any documents were withheld based on assertions of privilege. Some of the earlier questions in this letter may also be answered by such a document. Relatedly, a portion of document RCPI_0000162 was redacted pursuant to the First Amendment privilege, but we were unable to locate a document specifying the basis for this assertion of privilege. If you did not serve these documents with your production, please do so now.

Private Plaintiffs reserve the right to raise additional issues related to Defendant-Intervenors’ production as we continue to review it. We very much appreciate your willingness to join us in asking the Court for more time to complete depositions following document production. As we discussed in our meet and confer of January 6, 2023, it is Private Plaintiffs’ preference to have documents prior to depositions and we believe we are working well to negotiate the requests and planned searches. However, the discovery cutoff date on matters related to the primary election of January 27, 2023 will be difficult to meet in light of the ongoing production, and an extension of that date may become necessary. I look forward to speaking with you about these matters and hope that the parties can narrow the scope of disagreement or reach an amicable resolution without seeking additional Court intervention.

Sincerely,

/s/ Nina Perales

Nina Perales (Tex. Bar No. 24005046)
 Julia R. Longoria (Tex. Bar No. 24070166)
 Fatima L. Menendez (Tex. Bar No. 24090260)
 MEXICAN AMERICAN LEGAL DEFENSE
 AND EDUCATIONAL FUND
 110 Broadway, Suite 300
 San Antonio, TX 78205
 Telephone: (210) 224-5476
 Facsimile: (210) 224-5382
 nperales@maldef.org
 jlongoria@maldef.org
fmenendez@maldef.org

/s/ Sean Morales-Doyle

Sean Morales-Doyle (NY Bar No. 5646641)
 Patrick A. Berry*(NY Bar No. 5723135)
 Jasleen K. Singh* (Cal. Bar No. 316596)
 Andrew Garber*(NY Bar No. 5684147)
 BRENNAN CENTER FOR JUSTICE
 AT NYU SCHOOL OF LAW
 120 Broadway, Suite 1750
 New York, NY 10271
 Telephone: (646) 292-8310
 sean.morales-doyle@nyu.edu
 patrick.berry@nyu.edu
 jasleen.singh@nyu.edu

Michael C. Keats*
Rebecca L. Martin*
Jason S. Kanterman*
Kevin Zhen*
FRIED, FRANK, HARRIS, SHRIVER &
JACOBSON LLP
One New York Plaza
New York, New York 10004
Telephone: (212) 859-8000
Facsimile: (212) 859-4000
michael.keats@friedfrank.com
rebecca.martin@friedfrank.com
jason.kanterman@friedfrank.com
kevin.zhen@friedfrank.com

Attorneys for Plaintiffs
LA UNIÓN DEL PUEBLO ENTERO,
SOUTHWEST VOTER REGISTRATION
EDUCATION PROJECT, MEXICAN
AMERICAN BAR ASSOCIATION OF
TEXAS, TEXAS HISPANICS ORGANIZED
FOR POLITICAL EDUCATION, JOLT
ACTION, WILLIAM C. VELASQUEZ
INSTITUTE, FIEL HOUSTON INC.

REED SMITH LLP, NAACP LEGAL DEFENSE &
EDUCATIONAL FUND, INC., THE ARC OF THE UNITED
STATES, INC.

/s/ Kenneth E. Broughton
Kenneth E. Broughton
Texas Bar No. 03087250
J. Keely Dulaney*
Texas Bar No. 24116306
Reed Smith LLP
811 Main Street, Suite 1700
Houston, TX 77002-6110
Telephone: (713) 469-3800
Facsimile: (713) 469-3899
kbroughton@reedsmith.com
kdulaney@reedsmith.com

Sarah M. Cummings
Texas Bar No. 24094609
Reed Smith LLP

eliza.sweren-becker@nyu.edu
andrew.garber@nyu.edu

Paul R. Genender (Tex. Bar No. 00790758)
Elizabeth Y. Ryan (Tex. Bar No. 24067758)
Matthew Berde* (Tex. Bar No. 24094379)
Megan Cloud (Tex. Bar No. 24116207)
WEIL, GOTSHAL & MANGES LLP
200 Crescent Court, Suite 300
Dallas, Texas 75201
Telephone: (214) 746-8158
Facsimile: (214) 746-7777
paul.genender@weil.com
liz.ryan@weil.com
matt.berde@weil.com
megan.cloud@weil.com

Attorneys for Plaintiffs
FRIENDSHIP-WEST BAPTIST CHURCH,
ANTI-DEFAMATION LEAGUE AUSTIN,
SOUTHWEST, AND TEXOMA REGIONS,
TEXAS IMPACT, JAMES LEWIN

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2850 N. Harwood Street, Suite 1500
Dallas, TX 75201
Telephone: (469) 680-4200
Facsimile: (469) 680-4299
scummings@reedsmith.com

Kathryn Sadasivan*
Amir Badat*
Victor Genecin*
NAACP Legal Defense and Educational Fund, Inc.
40 Rector Street, 5th Floor
New York, NY 10006
Telephone: (212) 965-2200
Facsimile: (212) 226-7592
ksadasivan@naacpldf.org
abadat@naacpldf.org

Jennifer A. Holmes*
NAACP Legal Defense and Educational Fund, Inc.
700 14th Street NW, Suite 600
Washington, DC 20005
Telephone: (202) 682-1300
Facsimile: (202) 682-1312
jholmes@naacpldf.org

Shira Wakschlag*
The Arc of the United States, Inc.
1825 K Street, NW, Suite 1200
Washington, DC 20006
Telephone: (202) 534-3708
Facsimile: (202) 534-3731
Wakschlag@thearc.org
* *Admitted Pro Hac Vice*

*Counsel for Plaintiffs Houston Area Urban League;
Delta Sigma Theta Sorority, Inc.; The Arc of Texas;
and Jeffrey Lamar Clemmons*

/s/ Bradley R. Prowant
Bradley R. Prowant (*admitted pro hac vice*)
bradley.prowant@stoel.com
33 South Sixth Street, Suite 4200
Minneapolis, MN 55402
Telephone: 612.373.8800
Facsimile: 612.373.8881

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Wendy J. Olson (*admitted pro hac vice*)
wendy.olson@stoel.com
Elijah M. Watkins (*admitted pro hac vice*)
elijah.watkins@stoel.com
Mark L. Bieter (*admitted pro hac vice*)
mark.bieter@stoel.com
101 S. Capitol Blvd., Suite 1900
Boise, ID 83702
Telephone: 208.389.9000
Facsimile: 208.389.9040

Laura E. Rosenbaum (*admitted pro hac vice*)
laura.rosenbaum@stoel.com
760 SW Ninth Avenue., Suite 3000
Portland, OR 97205
Telephone: 503.224.3380
Facsimile: 503.220.2480

FREE SPEECH FOR PEOPLE
Courtney Hostetler (*admitted pro hac vice*)
chostetler@freespeechforpeople.com
Ben Clements (*admitted pro hac vice*)
bclements@freespeechforpeople.com
John Bonifaz (*admitted pro hac vice*)
jbonifaz@freespeechforpeople.com
1320 Centre St., #405
Newton, MA 02459
Telephone: 617.249.3015

LYONS & LYONS, PC
Sean M. Lyons
sean@lyonsandlyons.com
Clem Lyons
clem@lyonsandlyons.com
237 W. Travis St., Suite 100
San Antonio, TX 78205

Attorneys for Mi Familia Vota Plaintiffs